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SUBJECT: FIRST LOOK AT JAPAN'S NEW CONSUMER AGENCY

Classified By: Ambassador J. Thomas Schieffer. Reason 1.4(b)(d)

¶1. (C) Summary: Japan's proposed Consumer Affairs Agency (CAA) aims at revitalizing the Japanese economy through restoring and promoting consumer confidence in product safety and more effective enforcement of existing laws, according to a senior GOJ official who heads the office charged with standing up the new agency. The CAA will create a nationwide network to collect and disseminate information on consumer problems, ensure effective cooperation and communication between different levels of government, and oversee agencies now enforcing various laws and regulations affecting consumers. It will also be the ultimate authority for sanctioning violators of consumer-related laws. The GOJ believes, by acting as a voice for consumer interests, the new consumer agency will stimulate consumption and economic growth. Although officials setting up the new agency profess support for transparency and openness, we will continue to monitor the CAA's formation and engage its leadership to ensure it does not result in the erection of new trade barriers. The agency is a personal initiative of Prime Minister Fukuda. End Summary.

Consumer Protection a Prime Ministerial Priority

¶2. (SBU) Improving consumer welfare is a top priority of Prime Minister Fukuda. In his January 2008 policy speech to the Diet, the Prime Minister announced the government's intention to "establish a new organization with strong authority to promote, in a uniform and systematic manner, consumer policy." A GOJ Study Group on Consumer Affairs released in June 2008 a Basic Plan for Promoting Consumer Policy that lays out guidelines for the new agency. In his August 1 Cabinet re-shuffle, Fukuda appointed Seiko Noda, a long time advocate for consumer issues, as Minister of State for Consumer Administration. (Note: Minister Noda's title also includes responsibility for science and technology

policy, food safety, and space development. End note.) At the bureaucratic level, the Cabinet office has established an Office for Integration of Consumer Policy, headed by Shigeki Kimura, a senior Ministry of Finance (MOF) official, to draft necessary legislation to establish the CAA. The GOJ plans to submit this legislation during the Fall 2008 extraordinary Diet session.

Six Policy Principles for New Agency

¶3. (SBU) Based on the Consumer Affairs Study Group report, the Cabinet agreed on six core principles to guide the future CAA. First, the agency must be convenient and understandable to consumers, with integrated consultation services and centralized information collection. Second, the agency must work for the benefit of consumers, symbolizing a shift from the past when the GOJ was often seen as favoring producers over consumers in the pursuit of economic growth. Third, the agency must have the capacity to react quickly to problems that come to its attention. Fourth, the CAA must develop the necessary expertise to do its job, by calling on specialists from existing ministries and agencies, as well as the private sector. Fifth, the CAA's operations should be transparent to all stakeholders, while reflecting the views of consumers in internal government deliberations. Finally, the CAA should operate efficiently.

¶4. (C) Under the Cabinet-approved plan, jurisdiction or partial jurisdiction for 29 existing consumer-related laws

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will transfer to the new agency. These laws fall into four main categories: product labeling, commercial transactions, product safety, and consumer policy. In most cases, enforcement responsibility will remain with line ministries, but the new agency will set overall policy direction in the area of consumer protection while, simultaneously, overseeing and coordinating enforcement. Most of the new agency's budget will be transferred from existing government entities. The CAA will have only 200-250 full time staff, Kimura explained.

¶5. (C) One open question is the CAA's relationship to the food and drug safety issues. The Consumer Affairs Study Group recommended the Food Safety Commission (FSC) not come under CAA authority, although both institutions will report to the same cabinet minister. A critical goal is to maintain the scientific objectivity of the FSC's risk assessments. However, food safety is a strong interest of the Prime Minister's so the CAA will have a pivotal role in formulating policies in regard to food safety, Kimura added. Likewise, there is still debate over CAA's precise relationship to the Pharmaceuticals and Medical Devices Agency (PMDA). According to Kimura, this issue is too complicated and technical to be included under CAA authority without sufficient preparation, but the GOJ hopes, once the CAA is established, the agency will begin to be more involved in this area.

No New Rules, Just Better Enforcement

¶6. (C) Creation of the new agency is "consistent with the trend of recent administrative reforms", Kimura said. There are no plans to introduce new, tighter consumer protection laws. Instead, the CAA will seek to fill "regulatory gaps" and improve the speed and efficiency of the GOJ's regulatory response and prevent what Kimura characterized as "regulatory arbitrage." Existing regulation of consumer-related issues, Kimura noted, is often very "vertical," with inadequate communication between GOJ agencies or regional governments. One aim of the CAA will be to establish better "horizontal" communication, improved enforcement, and increased transparency of these efforts. Oddly for a senior MOF official, Kimura attributed Japan's years of lagging consumption to consumer anxiety over potentially suspect

goods and services, rather than orthodox macro-economic explanations such as sticky wages, uncertainty about future income streams from pensions, and persistent deflation.

17. (C) The CAA will establish a nationwide network of offices to collect and disseminate information about consumer product violations or safety problems. It will also serve as a voice for consumer interests in interactions with existing ministries which, in many cases, are responsible for regulating the same industries they are seeking to promote. While enforcement will remain with line ministries, the CAA will be the ultimate standard-setting body and have authority to sanction those violating consumer laws. Japan's recent consumer product scandals, in many cases, have resulted not from weak regulations, but from ineffective enforcement, Kimura admitted.

Avoiding a Compliance Recession

18. (C) The CAA will not discriminate between domestic and foreign producers, Kimura insisted. If a company is a reputable producer and abides by the rules, it should have nothing to worry about, he added. While the draft bill gives

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the CAA authority to propose new consumer legislation, Kimura did not envision the CAA recommending major legislative changes, at least in its initial stages. Instead, he expected the CAA would maintain the regulatory "status quo", since the Cabinet order on the new agency explicitly orders the CAA to avoid a "compliance recession", i.e., a negative impact on economic growth, such as occurred when the government implemented strict new building codes in response to the 2006 scandal over falsification of earthquake resistance data, and when the Financial Instruments and Exchange Law ushered a severe drop in the sales of investment trusts. On the other hand, if done correctly, improved consumer protection could lead to economic revitalization by helping to restore consumer trust in the market, Kimura insisted.

Comment

19. (C) In discussions with Emboffs, Kimura repeatedly emphasized the CAA would not seek to tighten Japan's overall regulatory regime, but, instead, to realize its mandate with minimal impact on law-abiding businesses. He promised also the CAA would not discriminate between domestic and foreign producers. Nevertheless, questions remain about how the CAA will operate in practice, e.g., what working relationships it will build with existing regulators. We have already heard reports of line ministries actively fighting to defend turf. Kimura agreed with Emboffs' contention that the best way to avoid unnecessary interruption to legitimate business is to work with the private sector in drafting the CAA law and, eventually, in setting up the new agency. Transparency is key to the new agency's success, Kimura acknowledged, especially since among the reasons a CAA is needed is the Japanese public's widespread perception that the GOJ previously sacrificed consumer concerns to producer interests. Kimura has already met with Japanese business groups, and said he welcomed an opportunity to meet U.S. business representatives, both during the legislation drafting process and afterwards. We will continue to monitor the creation of the new agency and seek out ways to move the process in a positive direction.

SCHIEFFER